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12 **UNITED STATES DISTRICT COURT**  
 13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 T.B., a minor, ALLISON BRENNEISE ) Case No.: 08 CV 0028 WQH (WMC)  
 15 and ROBERT BRENNEISE, ) (Consolidated with 08 CV 0039)  
 16 Plaintiffs, )  
 17 v. ) DECLARATION OF STEVEN  
 18 SAN DIEGO UNIFIED SCHOOL ) WYNER IN SUPPORT OF  
 19 DISTRICT ) DEFENDANTS' OPPOSITION TO  
 20 Defendant. ) MOTION FOR CERTIFICATION

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21 SAN DIEGO UNIFIED SCHOOL )  
 22 DISTRICT, )  
 23 Plaintiff, )  
 24 v. )  
 25 T.B., a minor, ALLISON BRENNEISE )  
 26 and ROBERT BRENNEISE, STEVEN )  
 27 WYNER and WYNER & TIFFANY )  
 28 Defendants. )  
 )  
 )  
 )  
 )

I, STEVEN WYNER, declare as follows:

1. I am an attorney and partner in the law office of Wyner & Tiffany, attorneys of

1 record for T.B. ("Student"), Allison Brenneise and Robert Brenneise  
2 ("Parents"), (collectively, "Defendants").

3 2. I offer my declaration in lieu of personal testimony in support of Defendants'  
4 OPPOSITION TO SAN DIEGO UNIFIED SCHOOL DISTRICT'S MOTION  
5 FOR CERTIFICATION. The facts stated herein are personally known to me  
6 and if sworn as a witness, I could and would competently testify to the  
7 truthfulness thereof.

8 3. On July 31, 2006, I filed a Compliance Complaint with the California  
9 Department of Education ("CDE") on behalf of Defendants, which resulted in  
10 CDE Investigation and Compliance Report S-0082-06/07, dated November 1,  
11 2006.

12 4. The CDE amended its November 1, 2006 Compliance Report on both  
13 November 3, 2006 and November 7, 2006.

14 5. The CDE's Compliance Report in case # S-0082-06/07 found the District non-  
15 compliant for failing to implement T.B.'s July 17, 2006 IEP during the  
16 extended school year immediately preceding the 2006-2007 school year. The  
17 CDE ordered the District to provide compensatory education to T.B. in the  
18 form of 24 hours of English Language Arts instruction and 80 minutes of  
19 Adapted Physical Education ("APE").

20 6. During a break at an IEP meeting sometime after the CDE issued its  
21 Compliance Report and Order, Ms. Elizabeth Estes, counsel for Petitioner San  
22 Diego Unified School District ("District") told me, that I should submit a  
23 written request for reimbursement for the legal fees Defendants incurred in  
24 connection with their successful compliance complaint.

25 7. On October 26, 2007, I sent a written request to the District seeking  
26 reimbursement, within 45 days pursuant to *Lucht v. Molalla River Sch. Dist.*,  
27 225 F. 3d 1023 (9<sup>th</sup> Cir. 2000), for the reasonable attorneys' fees incurred by  
28 Defendants in connection with their successful compliance complaint and

1 attached a copy or a redacted invoice.

2 8. The redacted invoice attached to my October 26, 2007 letter shows that the  
3 reasonable attorneys' fees incurred in connection with Defendants successful  
4 compliance complaint amounted to seven thousand ninety dollars and fifty  
5 cents (\$7,090.50).

6 9. The total attorneys' fees and costs incurred in connection with the due process  
7 case currently under appeal in the U.S. District Court for the Southern District  
8 of California (OAH Case Nos. N2006120002 / N2007010848) exceeds  
9 \$800,000.

10 10. I declare under penalty of perjury of the laws of the State of California and the  
11 United States of America that the foregoing is true and correct to the best of my  
12 knowledge. Executed this 4<sup>th</sup> day of August 2008, at Torrance, California.

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14   
15 STEVEN WYNER

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3 CERTIFICATE OF SERVICE  
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I, the undersigned, declare under penalty of perjury, that I am over the age of 18 and that I am not a party to this action. On August 4, 2009, I served this DECLARATION OF STEVEN WYNER IN SUPPORT OF DEFENDANT'S OPPOSITION TO SAN DIEGO UNIFIED SCHOOL DISTRICT'S MOTION FOR CERTIFICATION on the San Diego Unified School District by serving their counsel of record electronically, having verified on the court's CM/ECF website that such counsel is currently on the list to receive emails for this case, and that there are no attorneys on the manual notice list.

10  
11 Dated: August 4, 2008

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13 /s/ Marcy J.K. Tiffany  
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